

SEISMIC SAFETY COMMISSION

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May 1, 2002

Memorandum

To: Commissioners

From: Henry Sepulveda
Director of Legislation

Subj: Legislative Report

This memorandum addresses legislative issues and decision-points pending before the Commission. At the May meeting, the Commission will discuss positions on recent legislation that directly affects the Commission.

Commission's Current Legislative Package

1. **AB 2002 (Alquist)** directs OES to form an advisory group in 2003 consisting of USAR representatives and State emergency officials. The advisory group would collaborate to identify the needs of California's USAR teams and funding strategies to finance that need.
 - This bill was introduced on February 22 by Assemblywoman Alquist. It passed through Assembly Governmental Organization Committee on the consent calendar and will be heard by Assembly Appropriations on May 1. (Staff will brief the Commission on the May 1 hearing at the Commission meeting.)
 - The California Professional Firefighters is a co-sponsor on this bill.
 - The City of Santa Monica and the City of Los Angeles Fire Services are also in active support of this bill.
2. **AB 977 (Alquist)** proposes full, ongoing funding for the Commission's Earthquake Emergency Investigations Account. The bill is on the Suspense File of the Senate Appropriations Committee.

- **The bill is scheduled to be heard by the Senate Appropriations Committee in June or August 2002.**

3. **SB 717 (Speier)** authorizes the issuance of \$600 million in state bonds to finance seismic retrofits of residential housing and local government buildings. It was approved by the full Senate and is on the Suspense File in the Assembly Appropriations Committee.

- **The bill is expected to be heard by the Assembly Appropriations Committee in summer 2002.**

New Legislation Affecting the Commission

AB 16 (Hertzberg) enacts the Kindergarten-University Public Education Facilities Bond Act of 2002 and the Kindergarten-University Public Education Facilities Bond Act of 2004, and authorizes the issuance of \$25 billion in state general obligation bonds to finance the construction and modernization of schools.

Of particular significance to the Commission is this bill's provision directing the Commission to convene an "Advisory Group" to study the feasibility of a process by which existing buildings that do not conform to the Field Act may be used as school facilities without compromising "pupil safety." The Advisory Group must meet by August 19, 2002 and present its findings to the Commission by December 31, 2002. The Commission is then to report its findings to the Governor and Legislature by January 8, 2003.

- The bill's provisions affecting the Commission were amended into the bill on March 20. The Assembly approved the bill on March 21; the Senate approved the bill on April 4. The Governor signed the bill on April 26.
- Commissioners Clark and Shapiro and Commission staff met with the Department of Finance on April 5 to discuss the fiscal impact of AB 16 on the Commission's budget.
- Staff met with the Department of Finance on April 26 to discuss funding options. DOF recommended that staff prepare a BCP to submit as part of the Governor's Budget (May Revise). Staff is submitting the BCP in early May.

SB 1992 (Perata) mandates, effective January 1, 2003 –on a statewide basis-- the installation of State Architect-certified gas shut-off valves in residential dwellings, including hotels and motels. The mandate applies to new construction and re-constructed buildings in which the project costs exceed a specified dollar amount.

- The bill allows the installation of either seismic gas shut-off devices or excess flow shut-off devices.
- The bill was amended to include the gas shut-off device mandates on April 8; a hearing is set before the Senate Housing and Community Development Committee for May 6.

AB 2708 (Mountjoy) would specify that a new school campus that begins offering classes to pupils after March 1, 2001, must comply with requirements to adopt a comprehensive school safety plan.

- Commission staff spoke with Assemblymember Mountjoy's office about the sources behind this bill. The author's staff indicated this bill was to close loopholes in current law and reinforce the importance of schools adopting a comprehensive school safety plan, which covers all disasters, including earthquakes.
- This bill is set to be heard by Assembly Education Committee on May 1.

BART Request to the Commission

The BART Seismic Retrofit Program is currently sponsoring State legislation to grant it an exemption from the requirements of the California Environmental Quality Act (CEQA). The legislation, SB 1415, is being processed through the State Legislature on an emergency basis. The exemption is similar to the exemptions granted to Caltrans for its Retrofit Program.

The Commission received a request from BART to express support of the BART Seismic Retrofit Program and send a statement regarding the Program's importance to the State. Attached to this Legislative Report is a copy of a draft letter of support for BART's Seismic Retrofit Program.

Legislative Tracking Report

Attached is an update of the Commission's Legislative Tracking Report for the 2001-02 Session. Exhibit A summarizes the bills and their committee status. Exhibit B shows the bill number, subject, author, committee location, analysis, and current Commission position.

Exhibit B

SEISMIC SAFETY COMMISSION Summary of Pending Legislation 2001-2002 Session

SB 27

(McPherson/Burton) *Description:* Requires OES to develop terrorism and bio-terrorism training curriculum for local agency “first responders.” Creation of a network of statewide trainers to be completed by June 30, 2002

Analysis: Except for differing deadlines and an urgency clause, the provisions in this bill are identical to SB 1350 (same authors). Neither bill includes an appropriation. The subject matter –training for emergency personnel-- is similar to the purpose of the Commission’s bill (AB 2002) and is supported by the Emergency Response Initiatives in the CELRP (10.2 & 10.3).

Status: Pending before Assembly Govt. Organization Comm.

Commission Position: Support.

SB 332 (Sher)

Description: Specifies building guidelines that apply to structures constructed of baled rice straw, subject to specific findings made by the local building agencies.

Analysis: This bill was approved by both the Senate and Assembly in 2001. However, before being signed by the Governor, the bill was recalled by the Senate for further consideration. The Governor requested the Commission participate in a multi-agency review of the bill. The author’s office agreed to amendments suggested by the Department of Housing and Community Development. The Commission opted to remain neutral on this bill.

Status: Chaptered (signed by the Governor on April 26)

Commission Position: Neutral

SB 355 (Escutia)

Description: Makes legislative declarations regarding a recent appellate court decision (Aas v. Superior Court, 2000) which held that a developer may not be held liable in negligence for

failing to install safety protections (*e.g.*, seismic restraints) unless that defect has caused death, bodily injury, or property damage.

Analysis: Spot bill. The Commission has remained neutral on this bill; staff will monitor.

Status: In Assembly.

Commission Position: Neutral

SB 709 (Alpert)

Description: Deletes the existing January 1, 2003 deadline for use of leased nonconforming school buildings (certified by a structural engineer as in “substantial compliance” with Field Act). Expands existing exemptions to include leased commercial buildings (with initial construction permit issued on or after January 1, 1976).

Analysis: Current law (Field Act) requires that all public school buildings meet certain seismic safety standards. An exemption to meeting these Field Act standards is allowed for commercial buildings leased prior to January 1, 2003, if the building was constructed after January 1, 1990, and if a structural engineer has certified that the building is in substantial compliance with the Field Act.

This bill allows school districts to lease or purchase commercial buildings constructed after January 1, 1976. (Current exemption allows leased buildings built after January 1, 1990.) The bill also requires the State Architect to include requirements for improvements necessary to attain substantial compliance with the Field Act if he/she does not agree with the report from a structural engineer on a commercial building's safety.

Status: Pending before Assembly Appropriations Committee. Senator Alpert's office indicated on 3/5/02 that they planned to discontinue seeking passage of the bill due to corresponding provisions in AB 16. (See AB 16 discussion, above).

Commission Position: Oppose

SB 842 (Speier)

Description: Allows five-year extensions (to 2013) of existing hospital seismic safety deadlines if the hospital agrees to comply with 2030 requirements by 2013. Also authorizes OSHPD to

grant up to five-year extensions on a case-by-case basis so long as the hospital submits a compliance plan that includes specific work progress milestones.

Analysis: As described in the Commission's White Paper (issued in 2001) on the Alquist Hospital Seismic Safety Act, the Commission is supportive of the measure's extension of the 2008 deadline in exchange for an acceleration of the 2030 deadline to 2013. However, the Commission believes that an extension of the 2008 deadlines on a case-by-case basis is not advisable and should be deleted from the bill.

Status: Assembly Floor (inactive file).

Commission Position: Support, if amended.

SB 928 (Dunn)

Description: States legislative intent to provide public funding (by the issuance of state general obligation bonds) to not-for-profit hospitals to comply with SB 1953 (hospital seismic safety) requirements.

Analysis: The Commission recognizes that this proposal creates financial incentives to encourage compliance with SB 1953 and assists not-for-profit hospitals to meet these requirements. Support for public funding to finance hospital seismic safety improvements was described and recommended in the Commission's 2001 White Paper

Status: Assembly Health Committee.

Commission Position: Support

SB 1350

(McPherson/Burton) Description: Requires OES to develop specific training dealing with terrorism awareness training and response.

Analysis: See discussion of SB 27, above.

Status: Senate Appropriations Committee

Commission Position: Support

SB 1500 (Johnson) Description: The introduced version made a series of changes to the Seismic Hazards Mapping Act and the requirements imposed

on the State Geologist and the California Geological Survey, or CGS, (formerly the Division of Mines and Geology) to:
(1) Update maps, depending on changes in local conditions; and
(2) Direct the State Board of Mining and Geology to consult with CGS and the Seismic Safety Commission to develop guidelines for using geo-technical reports in preparing and updating seismic hazardous maps upon request of local agencies.

Analysis: The California Seismic Hazards Mapping Act was an expansion of the Alquist-Priolo Earthquake Fault Zone Act. The expansion covered seismic hazards such as strong shaking, landslides induced by earthquakes, liquefaction and lateral spreading and other seismic geohazards (but not fault deformation of ground surface due to dynamic compaction). The Act provided operational funding for the Seismic Hazards Mapping Program.

At the March hearing, the Commission noted a series of concerns about the introduced version of SB 1500 including workload impact of CGS and SSC, as well as a lack of general standards relating to mitigation and grading. The Commission opted to take an "Oppose" position on this bill.

At the April 9 hearing on this bill, the author made several amendments to SB 1500. The amendments significantly narrow the scope of the bill and the Senate Natural Resources Committee approved the bill as amended.

As amended on April 16, the bill now requires sellers to inform prospective buyers about seismic hazard maps prepared in accordance with previously established CGS guidelines. All other provisions were deleted.

Status: Senate Judicial Committee

Commission Position: *Oppose. (Staff recommends that current position should be re-considered at the May Commission Meeting given the April 16 amendments.)*

Staff Recommendation: **Neutral**

SB 1629 (Soto)

Description: Requires OES to provide grants to local agencies for training to upgrade the skills of firefighters and emergency personnel funding.

Analysis: (Spot bill.) The intent of the bill is consistent with the Emergency Response Initiatives in the CELRP (10.2 & 10.3).

Status: Senate Appropriations Committee

Commission Position: Support.

SB 1992 (Perata) Description: Mandates, effective January 1, 2003, the installation of DSA-certified gas shut-off valves in residential dwellings (seismic gas shut-off valves or excess flow gas shut-off valves) in new construction and re-construction projects having a project cost above a specified amount.

Analysis: The original bill was gutted and the gas shut-off valve provisions amended into the bill on April 8. The author's office indicated that they agreed to carry the bill because it did not favor either of the competing technologies. However, the bill's sponsor did not inform the author about the Commission's pending report and July 2002 hearing.

Status: Referred to the Senate Housing and Community Development Committee (May 6).

Commission Position: (Pending.)

AB 557 (Aroner) Description: Establishes the Safe Hospitals Bond Act of 2004 and the Safe Hospitals Bond Act of 2006 to authorize the issuance of State general obligation bonds providing financial assistance to hospitals to comply with the SB 1953 deadlines. The bonds would be issued as follows: \$1 billion in 2004 and \$1 billion in 2006.

Analysis: The Commission recognizes that this proposal creates financial incentives to encourage compliance with SB 1953 and assists hospitals to meet these requirements. As was the case for SB 928 above, support for public funding to finance hospital seismic safety improvements was described and recommended in the Commission's 2001 White Paper

Status: Senate Appropriations Committee

Commission Position: Support

AB 940 (Keeley) Description: Adds two voting members to the California Earthquake Authority Board (one representative from the State Senate and one representative from the State Assembly).

Reporting requirements are also changed to include submittals to the Assembly Judiciary Committee and the Joint Legislative Audit Committee.

Analysis: The Commission has remained neutral on this bill but staff will monitor.

Status: Senate Inactive File

Commission Position: Watch

AB 1000 (Simitian) Description: Allows Community Colleges to enter into a design-build contracts for campus projects exceeding \$10 million. Includes a 2008 “sunset date.”

Analysis: Community college buildings are subject to the Field Act. Historically, the Commission has opposed legislation that would dilute the seismic safety protections afforded by the Field Act. The Commission has generally opposed design-build contracting because design-build facilities have performed poorly in earthquakes (Northridge, 1994).

Last year, the enactment of AB 1402 (Simitian) authorized K-12 schools to enter into design-build contracts for projects exceeding \$10 million. AB 1000 is virtually identical to AB 1402, but directed at community college projects instead. The Commission suggested various amendments to AB 1402 to ensure the independence of the on-site Inspector of Record (IOR). Those amendments were accepted and incorporated into AB 1402.

In March, the Commission offered Assemblyman Simitian some amendments to AB 1000 because the design-build contracting process compromises the independent reporting arrangement for the IOR. The amendments were acceptable to the bill’s sponsor, the Chancellor of Community Colleges. However, the author’s office has shown reluctance to accept the amendments.

Status: Senate Education Committee

Commission Position: Oppose unless amended

AB 1156 (Aroner) *Description:* States legislative intent to establish the Safe Hospitals Bond Act of 2002 to authorize the issuance of State general obligation bonds (unspecified amount) to fund hospital construction for purposes of complying with SB 1953 requirements. Hospitals are required to provide up to 25% matching funds, unless waived by the Legislature.

Analysis: The Commission recognizes that this proposal creates financial incentives to encourage compliance with SB 1953 and assists hospitals to meet these requirements. As was the case for SB 928 above, support for public funding to finance hospital seismic safety improvements was described and recommended in the Commission's 2001 White Paper

Status: Senate Health and Human Services Committee

Commission Position: Support

AB 1362 (Wiggins) *Description:* Establishes the California Building Rehabilitation Code Advisory Council to advise the State Building Standards Commission on whether the development of state building rehabilitation guidelines will improve the re-use and safety of existing buildings. Includes a 2006 "sunset date."

Analysis: The rehabilitation of nonresidential buildings is hindered because building owners are unsure about how existing codes relate rehabilitation. According to California Building Industry Association (CBIA), the bill establishes predictable and proportional guidelines to help assist local building officials interpret rehabilitation requirements and provide certainty to building owners and designers regarding the scope and cost of the requirements. The author notes concern that the variation in interpreting building rehabilitation requirements can inflate rehabilitation costs to a property owner that wishes to upgrade an older building.

Existing law does not contain a separate Building Rehabilitation Code.

Prior Legislation. AB 2259 (Wiggins) in the 1999-2000 legislative session, was vetoed by the governor, who stated, "A specific law is not needed to create an advisory council if the Commission deems one to be necessary. The Building Standards Commission's 2000 Code Partnership has already undertaken an extensive review of recently published codes.

Their recommendations will be incorporated into existing building codes by the SBSC during the upcoming code adoption cycles." The author is working with the Administration to resolve these concerns

The products resulting from this bill could impact Initiatives 6.1.2, 6.1.3, 6.3.1, 6.4.3, 6.4.4, 6.4.5, 6.4.6, 6.4.8 and 6.4.9 of the Commission's Loss Reduction Plan. The Governor does not need a new state law to undertake the proposed work.

Status: Senate Housing and Community Development Committee

Commission Position: Watch

AB 1815 (Frommer) Description: Declares legislative authority to authorize the issuance of up to \$500 million in state general obligation bonds ("California Homeland Defense Bonds"), with the proceeds to be used via OES to fund anti-terrorism activities by local firefighting agencies, local police departments, and local emergency services agencies. The bonds would have very short (5-year) maturities and be patterned after US Savings EE bonds.

Analysis: (Spot bill.) According to the author's office, there is no specific plan for the use of the funds. The staff indicated an interest in coordinating this bill's funding mechanism with the needs inventory developed by the USAR Advisory Group convened by the Seismic Safety Commission in connection with AB 2002 (Alquist).

Status: Assembly Appropriations Committee

Commission Position: Support

AB 2035 (Frommer) Description: Establishes the Disaster Response Field Hospitals Act that directs the state Emergency Services Management Authority (EMSA) to operate three disaster response field hospitals (one each in Northern, Central and Southern California) staffed by local, regional and state personnel. Subject to Budget Act funding, the field hospitals are to be operational by January 1, 2004. The field hospitals are intended to improve the state's preparedness to respond to a disaster or

terrorism incident.

In addition, the bill requires each general acute care hospital to submit to EMSA, by July 1, 2003, a plan to institute a "Hospital Emergency Incident Command System (HEICS)" modeled after a San Mateo County plan. The submitted plans must be implemented by July 1, 2004.

Analysis: The importance of improving the state's disaster response is described in the Commission's CELRP Initiatives 10.2 and 10.4 ("Emergency Response"). The proposals in AB 2035 are consistent with the strategies addressed in the CELRP.

Status: Assembly Appropriations Committee.

Commission Position: Support.

AB 2046 (Corbett) Description: This bill creates a School Safety Advisory Council to consider issues of school safety and report to the State Department of Education and to the Legislature. The Council sunsets on January 1, 2004.

Analysis: In March 2001, the Commission conducted a hearing in Pasadena to address the problems associated with earthquake school safety. At the hearing, the Commission learned that there were no meaningful data being collected on compliance with existing laws on school earthquake preparedness. Subsequent to the hearing, the Commission staff completed a survey in which the results suggest a low level of participation by California schools in emergency preparedness.

Commission staff believes that the fiscal impact of this bill is unclear. The membership requirements of the advisory council should be broadened to reflect a wider range of interests. Reaction of the Board of Education to the bill and its impact is unknown.

Status: Assembly Appropriations Committee

Commission Position: Support

AB 2201 (Corbett) Description: This bill requires school districts to appoint an emergency manager to develop and manage emergency plans. This would create a state-mandated program.

Analysis: See analysis of AB 2046, above.

Staff believes that this bill has many fiscal implications. Although some school districts in California already have an emergency manager position, many individual schools do not. Staff recommends support because an emergency manager would help ensure that earthquake drills are practiced regularly and supplies are updated and kept according to existing state law.

Status: Assembly Appropriations Committee

Commission Position: Support

AB 2233 (Wright) Description: This bill, the Firefighting Equipment Bond Act of 2002, would authorize the issuance of an unspecified amount of State general obligation bonds for the purpose of financing firefighting equipment, including –specifically–thermal imaging equipment.

Analysis: In 2001, AB 2001 (Wright) authorized the establishment of a Thermal Imaging Equipment Purchasing Program in OES to acquire thermal imaging equipment (cameras) for local firefighting agencies. Local agencies would be able to purchase thermal imaging equipment at ½ of the price paid for the equipment purchased on their behalf by the state. The bill's \$50,000 appropriation was deleted by the Governor before signature and enactment.

This bill sets up a funding mechanism to finance the purchase of the thermal imaging equipment, as well as other firefighting equipment for local hazardous material teams. The author's office has indicated an interest in coordinating this bill's funding mechanism with the needs inventory developed by the USAR Advisory Group convened by the Seismic Safety Commission in connection with AB 2002 (Alquist).

Funding for USAR teams is recommended in the Commission's CELRP (Initiative 10.4 –"Improve Search and Rescue").

Status: Assembly Appropriations Committee

Commission Position: Support.